

TENNESSEE REGULATORY AUTHORITY

Melvin Malone, Chairman
Lynn Greer, Director
Sara Kyle, Director



REC'D IN
REGULATORY AUTH.
MAR 22 4 00 PM '00
EXECUTIVE SECRETARY

James Robertson Parkway
Nashville, Tennessee 37243-0505

MEMORANDUM

TO: Chairman Melvin Malone
Director Lynn Greer
Director Sara Kyle

FROM: Eddie Roberson *ER*
Chief, Consumer Services Division

Lisa Foust *LF*
Consumer Specialist, Consumer Services Division

Richard Collier *RC*
General Counsel

DATE: March 22, 2000

SUBJECT: Settlement Agreement with America's Tele-Network ("ATN")
(Docket No. 00-00135)

Attached is the Settlement Agreement ("Agreement") between the Consumer Services Division ("CSD") and ATN. This Agreement is the result from the CSD investigation into the practices of ATN relating to the switching of Tennessee consumers' long distance service.

In the Agreement, ATN agrees to pay the Authority the sum of \$56,000 in two installments with the first payment of \$25,000 due within ten (10) days of the date the Agreement is approved by the Tennessee Regulatory Authority ("TRA"). The final payment of \$31,000 is due within four (4) months of the approval of the Agreement. Further, ATN agrees to notify all of its Tennessee customers that they may be entitled to a refund of ATN charges if their long distance service was switched without their permission. The Agreement also prescribes the actions ATN will take to prevent further slamming complaints. To assist in monitoring compliance, ATN will provide to the CSD quarterly reports containing various requested information. Finally, ATN has agreed to cease marketing its services for six (6) months if the actions taken by ATN do not significantly reduce or eliminate slamming complaints against ATN in Tennessee.

This matter is on the March 28th Conference Agenda for your consideration. A representative of ATN will be present at the Conference in case you should have any questions or comments.

cc: David Waddell, Executive Secretary
Brian Cute, Counsel for ATN

BEFORE THE TENNESSEE REGULATORY AUTHORITY

**IN RE: SETTLEMENT AGREEMENT WITH AMERICA'S
 TELE-NETWORK, INC.
 DOCKET NO. 00-00135**

SETTLEMENT AGREEMENT

1. The purpose of this document is to memorialize a settlement between America's Tele-Network ("ATN" or the "Company") and the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("Authority" or "TRA"). ATN was issued a Certificate of Public Convenience and Necessity on December 22, 1995, by the Tennessee Public Service Commission ("TPSC") authorizing it as a reseller of telecommunications services in Tennessee.¹ ATN's intrastate service is subject to the applicable laws of the State of Tennessee and to the rules promulgated by the Authority.
2. Based on fifty-one (51) written complaints received from Tennessee consumers alleging that ATN had changed their long distance service without authorization, the CSD met with representatives of the Company as well as counsel for ATN on December 9, 1999. As a result of that meeting and in an effort to resolve this matter, ATN issued refunds and/or credits to each consumer who has complained to the Authority, regardless of whether ATN agrees that the complaint has merit. In an attempt to resolve this matter without further proceedings, ATN and the CSD

¹ TPSC Docket Number 95-03709

have agreed to the terms of the settlement described herein. This settlement agreement is not intended to be an admission of wrongdoing by ATN.

Terms of Settlement

3. For the purposes of settlement, ATN will pay to the Authority the sum of fifty-six thousand dollars (\$56,000.00) to be used for consumer education, TRA regulatory expenses, or such other public purpose, as the TRA shall determine. ATN agrees to pay this sum in two installments. The first installment of twenty-five thousand dollars (\$25,000.00) will be due and payable within ten (10) days of the date that the Authority approves this settlement agreement. The remaining thirty-one thousand dollars (\$31,000.00) will be due within four (4) months of the approval of this settlement agreement.
4. ATN agrees to notify all of its Tennessee customers, via first class mail, that they may be entitled to a refund of ATN charges if they did not authorize the change in their long distance service to ATN. ATN agrees to work with the CSD to develop the notification letter to be sent to all of its Tennessee customers within thirty (30) days of the Authority's approval of this settlement agreement. Additionally, ATN agrees to provide to the CSD a report, within six (6) months of the approval by the Authority of this settlement agreement, detailing the following information:
 - 4.1. The number of Tennessee consumers who were mailed the notification letter outlining the procedures they can follow to receive full restitution if their long distance service was switched without authorization. ATN will provide

to the CSD upon request the names and telephone numbers of the consumers to whom the notification letters were mailed.

- 4.2. A list of the names and addresses of all Tennessee consumers who responded to the notification claiming that their service was switched to ATN without their authorization. This list shall also include the dollar amount refunded to each consumer.
- 4.3. A notarized affidavit from an officer of the Company attesting that the information contained in the report is accurate and in compliance with this settlement agreement.
5. ATN agrees to make full restitution, as required by Tenn. Code Ann. § 65-4-125, to all Tennessee consumers who have filed a complaint with the Company or with the TRA, as well as any future complainants where the consumer demonstrates that his or her long distance service was changed to ATN without the consumer's authorization.
6. ATN agrees to implement the following marketing improvement plan that is designed to ensure future compliance with Authority rules and applicable state laws.
 - 6.1. ATN will exclusively use company employees instead of an outside telemarketing firm for its telemarketing of Tennessee customers.
 - 6.2. ATN will provide new training materials to its telemarketers soliciting Tennessee consumers regarding TRA rules and applicable Tennessee statutes prohibiting the unlawful switching of long distance carriers without proper authorization and the consequences for non-compliance. ATN shall

provide the CSD a copy of this new training material within ninety (90) days of the approval by the Authority of this settlement agreement.

- 6.3. ATN shall require each individual employee engaged in marketing its services in Tennessee to execute an acknowledgement form stating that the employee understands and accepts ATN's policy prohibiting submission of carrier changes without proper authorization as prescribed by TRA rules and Tennessee law. Copies of these acknowledgement forms will be made available to the CSD upon request.
- 6.4. ATN will incorporate into its telemarketing script and into the script used by its third party verifiers specific language making it clear to consumers that ATN is an independent company, not affiliated with the incumbent local carrier BellSouth or with any other long distance carrier, such as AT&T. A copy of this new script shall be provided to the CSD within thirty (30) days of the approval by the Authority of this settlement agreement.
- 6.5. ATN will verify all of its switching of new residential customers in Tennessee by the use of an independent third party verification ("TPV") company. ATN shall continue to employ a TPV and to obtain via the TPV the verbal, taped authorization of customers before changing their long distance service to ATN. ATN agrees to require its third party verifiers to maintain the verification tapes of Tennessee transactions for a period of time not less than one (1) year from the date the verification is conducted. ATN also agrees to provide such tapes to the CSD upon request.

- 6.6. ATN's compensation to its third party verifiers will not be based upon a commission basis of successful conversions to ATN service.
- 6.7. ATN shall dismiss any employee found to have changed a consumer's long distance service without obtaining the proper authorization as required by the regulations of the Authority.
7. For a period of twelve (12) months following the Authority's approval of this settlement agreement, ATN will submit to the CSD quarterly reports containing the following information:
 - 7.1. The number of Tennessee consumers, by month, alleging that their long distance service was switched to ATN without their authorization and the action taken by ATN including any amount of restitution provided;
 - 7.2. The number of Tennessee consumers, by month, alleging that ATN charges appeared on their telephone bill without their authorization and the action taken by ATN including any amount of restitution provided; and
 - 7.3. The number of Tennessee consumers, by month, alleging that the inducements, if any, offered by ATN to get the consumer to switch their long distance service were not provided along with a description of the actions taken by ATN to resolve the dispute.
 - 7.4. ATN shall provide to the CSD upon request the names and telephone numbers of the consumers as described in Paragraphs 7.1 through 7.3.
8. ATN will be represented by counsel at any formal settlement proceeding before the TRA.

9. ATN shall fully comply with all applicable Tennessee statutes including, but not limited to, Tenn. Code Ann. § 65-4-125 and the rules and regulations of the Authority in its conduct of business in Tennessee
10. If compliance with the aforementioned improvement plan does not significantly reduce or eliminate verifiable slamming complaints against ATN in Tennessee, the Company agrees, upon notice from the CSD, to voluntarily cease telemarketing in Tennessee for a period of six (6) months.

Entered into this the 22nd day of March, 2000.

Signature: 

Print Name: John Little

Title: President

America's Tele-Network
720 Hembree Place
Alpharetta, GA 30076
(770) 751-1820



EDDIE ROBERSON

Chief, Consumer Services Division
Tennessee Regulatory Authority
460 James Robertson Pkwy
Nashville, TN 37243-0500
(615)741-2904



BRIAN CUTE, Esq.

Counsel for America's Tele-Network
The Helein Law Group, P. C.
8180 Greensboro Drive
McLean, VA 22102
(703) 714-1305